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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/586,698	07/20/2006	Akifumi Hayashi	06462/LH	7832
1933 7590 06/23/2010 FRISHAUF, HOLTZ, GOODMAN & CHICK, PC 220 Fifth Avenue 16TH Floor NEW YORK, NY 10001-7708				
EXAMINER				
HAND, MELANIE JO				
ART UNIT		PAPER NUMBER		
3761				
MAIL DATE		DELIVERY MODE		
06/23/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/586,698

Applicant(s)

HAYASHI ET AL.

Examiner

MELANIE J. HAND

Art Unit

3761

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 March 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8,9,11,12 and 21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8,9,11,12 and 21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date 4/14/10
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 8, 9, 11 and 21 have been considered but are moot in view of the new ground(s) of rejection prompted by applicant's submission of an information disclosure statement.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on April 14, 2010 was filed after the mailing date of the non-final action on December 28, 2009. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 8, 9, 11 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Abiko (JP 2000-300606-English translation).

With respect to **claim 8**: Abiko discloses an absorbent article comprising: a liquid-permeable topsheet 2 positioned at a surface that is contactable with a human body; a non liquid-

permeable backsheet 1 positioned at a surface opposite to the topsheet; an absorbent body 3 provided between the topsheet and the backsheet; and three-dimensional gathers 7a,7b formed at the topsheet side to be raised at both side portions in a longitudinal direction of the absorbent body (Figs. 1a,b); wherein the backsheet 1 includes folding portions which are folded up to the topsheet side along both side portions in the longitudinal direction of the absorbent body (Fig.6); wherein a part of each of the folding portions is adhered to the topsheet at a corresponding respective attachment portion 12a or 12b to be flat along both side portions in the longitudinal direction of the absorbent body; wherein the topsheet includes adhesion sections along both side portions in the longitudinal direction of the absorbent body 20 at each of which the corresponding attachment portion of the topsheet is folded up to the topsheet side and adhered to the topsheet (Fig. 6); wherein non liquid-permeable nonwoven fabrics defining side seats 10a,10b are adhered to surfaces that are opposite to surfaces of the folding portions that face the topsheet to form the three-dimensional gathers [0004]; wherein the non liquid-permeable nonwoven fabrics are adhered to the flat folding portions 12a,b so as to form flat root portions of the three-dimensional gathers along both side portions in the longitudinal direction of the absorbent body (Figs. 1a,6); and wherein the three-dimensional gathers are raised from the flat root portions along both side portions in the longitudinal direction of the absorbent body.

With respect to **claim 9**: The three-dimensional gathers 7a,b comprise the folding portions and the non liquid-permeable nonwoven fabrics of side seats 10a,10b which are at least partially adhered to the folding portions, wherein the three-dimensional gathers have free ends structured with the non liquid-permeable nonwoven fabrics. (Fig. 6)

With respect to **claim 11**: The non liquid-permeable nonwoven fabrics are adhered to the

backsheet from adhesion starting points at portions 12a,b that are at an inner side in a width direction than folding starting points of the folding portions. (Fig. 6)

With respect to **claim 21**: Abiko discloses an inner absorbent article, comprising: a liquid-permeable topsheet 2 positioned at a surface that is contactable with a human body; a non liquid-permeable backsheet 1 positioned at a surface opposite to the topsheet; an absorbent body 3 provided between the topsheet and the backsheet; and three-dimensional gathers 7a,b formed at the topsheet side to be raised at both side portions in a longitudinal direction of the absorbent body; wherein the backsheet includes folding portions which are folded up to the topsheet side along both side portions in the longitudinal direction of the absorbent body (Fig. 6); wherein a part of each of the folding portions is adhered to the topsheet at a corresponding attachment portion 12a,b to be flat along both side portions in the longitudinal direction of the absorbent body; wherein the topsheet includes adhesion sections along both side portions in the longitudinal direction of the absorbent body at each of which the corresponding attachment portion of the topsheet is folded up to the topsheet side and adhered to the topsheet (Fig. 6); wherein non liquid-permeable nonwoven fabrics defining side seats 10a,10b are adhered to surfaces that are opposite to surfaces of the folding portions that face the topsheet to form the three-dimensional gathers [0004]; wherein the non liquid-permeable nonwoven fabrics are adhered to the flat folding portions 12a,b so as to form flat root portions of the three-dimensional gathers along both side portions in the longitudinal direction of the absorbent body (Figs. 1a,6); and wherein the three-dimensional gathers are raised from the flat root portions along both side portions in the longitudinal direction of the absorbent body.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Abiko ('606) in view of Takai et al (U.S. Patent Application Publication No. 2003/0099821).

With respect to **claim 12**: Abiko does not disclose that the backsheet includes a ramie nonwoven fabric. Takai discloses a ramie nonwoven sheet for use in an absorbent article that is disintegratable in water, thereby rendering the article flushable and biodegradable, minimizing waste. Thus it would be obvious to one of ordinary skill in the art to modify the backsheet disclosed by Abiko such that the backsheet includes a ramie nonwoven fabric such as the sheet disclosed by Takai to provide a flushable and biodegradable article.

Conclusion

7. Applicant's submission of an information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) on April 14, 2010 prompted the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 609.04(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

8. Further, it is noted that the new ground of rejection of claim 12 herein was prompted solely by applicant's amendment to the claims to render claim 12 dependent from claim 8 which is directed to the same embodiment.

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MELANIE J. HAND whose telephone number is (571)272-6464. The examiner can normally be reached on Mon-Thurs 8:00-5:30, alternate Fridays 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Melanie J Hand/
Primary Examiner, Art Unit 3761